

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

| | | |
|---------------------|---|------------------------------------|
| THOMAS E. WOODS, |) | |
| |) | Civil Action No. 06 - 757 |
| Plaintiff, |) | |
| |) | Judge Thomas M. Hardiman / |
| v. |) | Magistrate Judge Lisa Pupo Lenihan |
| |) | |
| SGT. ABRAMS, et al, |) | |
| |) | |
| Defendants. |) | |
| |) | |

ORDER

Defendants filed an Answer (Doc. No. 17) on September 21, 2006. Plaintiff filed a Renewed Request for Entry of Default (Doc. No. 18) on September 22, 2006. Defendants' answer was filed before Plaintiff's request, therefore, the request will be denied. Because the answer has been filed, however, summary judgment motions need to be filed. Therefore,

IT IS ORDERED this 28th day of September, 2006, that Plaintiff's Renewed Request for Entry of Default (Doc. No. 18) is **DENIED**.

IT IS FURTHER ORDERED that no formal discovery, such as interrogatories, requests for production or requests for admission will be allowed in this case without leave of court. However, no later than October 31, 2006, the defendant(s) shall provide plaintiff with the following:

- (1) all incident reports in its possession concerning the alleged incident or incidents;
- (2) all medical records in its possession concerning this alleged incident or incidents.

Plaintiff shall, no later than November 10, 2006, advise the court of any further discovery, if any he deems necessary for the prosecution of this case. He may not submit requests for

discovery to the defendant(s) without leave of court.

IT IS FURTHER ORDERED that the parties shall file motions for summary judgment no later than **November 30, 2006**. Responses to motions for summary judgment shall be filed no later than **December 30, 2006**.

IT IS FURTHER ORDERED that Plaintiff is advised that his response to the a motion for summary judgment may include opposing or counteraffidavits (executed by the plaintiff or other persons) which have either been sworn to under oath (notarized) or include at the end of the document, immediately before the plaintiff's signature, the following in accordance with 28 U.S.C. § 1746: "I declare under penalty of perjury that the foregoing is true and correct. Executed this ____ day of _____, 20 ____.


IT IS FURTHER ORDERED that all affidavits, opposing or counteraffidavits must be based upon the personal knowledge of the person executing the affidavit; that no affidavit, amended complaint, pretrial narrative or other document containing plaintiff's allegations will be considered when determining the motion for summary judgment unless it has been notarized before a notary public or unless it contains a declaration under penalty of perjury as set forth above; that plaintiffs may attach to their affidavits copies of any depositions, answers to interrogatories, institutional records or other documents they wish this court to consider when addressing the summary judgment motion; and that the motion for summary judgment will be evaluated under the procedure standard set forth in Rule 56 of the Federal Rules of Civil Procedure; and that failure to respond may result in entry of judgment against them.

IT IS FURTHER ORDERED that Plaintiff shall serve on counsel for Defendants a copy of each pleading or other document submitted for consideration by the court and shall include with each document filed a certificate stating the date a true and correct copy of

the pleading or document was mailed to each attorney. Any pleading or other document received by a district judge or magistrate judge which has not been filed with the Clerk or which fails to include a certificate of service shall be returned to the Plaintiff by the Clerk.

IT IS FURTHER ORDERED that Plaintiff shall serve upon defense counsel a copy of every pleading or other document submitted to the Court for consideration. Each pleading or document filed with the Clerk of Court shall include a certificate stating the date a true and correct copy of the pleading or document was mailed to counsel. Any pleading or other document received by a District Judge or Magistrate Judge which has not been filed with the Clerk or which fails to include a certificate of service may be disregarded by the Court and returned to the Plaintiff by the Clerk..

IT IS FURTHER ORDERED that in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1)(A), and Local Rule 72.1.3, the parties are allowed ten (10) days from the date of service to file an appeal from this order to the District Court. Any opposing party shall have seven (7) days from the date of service of the appeal to respond thereto. Failure to timely file an appeal may constitute a waiver of any appellate rights.



LISA PUPO LENIHAN
United States Magistrate Judge

cc: Thomas E. Woods
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